IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 14TH AUGUST 2007 / 23RD SRAVANA 1929

Bail Appl..No. 4766 of 2007()

[CRIME NO.173 OF 2007 OF MANJESHWAR POLICE STATION]

PETITIONER/ACCUSED

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1. SHEIK MANSOOR,
   AGED 25 YEARS, S/O.SHEIK ISMAIL, FIRDOUZ NAGAR,
   P.O.UPPALA, KASARAGOD DITRICT.

2. SHEIK MUHAMMED IQBAL,
   AGED 53 YEARS, S/O.SHEIK ABDULLA,
   A.K.R.HOUSE, HIDAYATH NAGAR,
   UPPALA VILLAGE, KASARAGOD DISTRICT.

3. SHEIK MUHAMMED ASLAM,
   AGED 33 YEARS, S/O.SHEIK ABDULLA,
   A.K.R.HOUSE, HITHAYATH NAGAR,
   UPPALA VILLAGE, KASARAGOD DISTRICT.

BY ADV. SRI.M.SASINDRAN
SRI.K.P.HARISH

RESPONDENTS: COMPLAINANT AND STATE

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1. STATE- REPRESENTED BY PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA, ERNAKULAM.

2. THE STATION HOUSE OFFICER,
   (CRIME NO.173 OF 2007 OF MANJESHWER POLICE
   STATION), KASARAGOD DISTRICT.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 14/08/2007, ALONG WITH BA NO. 4768 OF 2007. THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.Nos.4766 & 4768 of 2007

Dated this the 14th day of August 2007

O R D E R

These applications are for anticipatory bail. The petitioners are common. They are accused in crime Nos. 173 and 174 of 2007 of Manjeswar police station. The story will not be complete without reference to crime No.175/07 also.

2. The first petitioner in these two petitions who was driving along the public road in his car allegedly gave a lift to two persons who sought such lift. The first petitioner had to go to his residence at Hidayath Nagar. He found that the two persons for whom he gave lift were drunk. He wanted to stop at his residence at Hidayath Nagar in Kasargod. But the two passengers for whom he gave lift did not allegedly allow him to stop. They wanted him to take them further to Kasargod town. He was not willing. He realised in the course of the journey that these two drunk persons were police constables. He reached his house in Hidayath Nagar. The two passengers allegedly misbehaved insisting that they must be taken further. At the house, the second petitioner was there. The police officials allegedly misbehaved to the wife of the second petitioner. Local people assembled and there was a big commotion. On getting information about the commotion and the involvement of the police constables, a police patrol party also allegedly reached the scene. To the officials

of the patrol party, the wife of the second petitioner promptly made a complaint about the misbehaviour of those two police men who were taken in the car of the first petitioner. Crime No.175/07 was registered at 6.45 p.m under Sections 448, 323 and 354 I.P.C on the basis of the complaint of the wife of the second petitioner. Crime No.174/07 was registered at the instance of the two police constables who complained that they were assaulted and deterred in the performance of their official duty by a crowd of people who had collected at the house of the first petitioner. That crime was registered inter alia under Section 308 read with 149 I.P.C.

3. Crime No.173/07 was registered by the police patrol party who have reached the scene of the crime. They alleged that they were obstructed by the members of the public in the discharge of duties and the vehicle, in which they travelled, was damaged also. That crime was registered inter alia under Section 353 I.P.C and Section 3 of the P.D.P.P.Act read with 149 I.P.C. Investigation into all the three crimes are in progress. Petitioners apprehend arrest in crimes 173 and 174 of 2007.

4. The learned counsel for the petitioners submits that the allegations against them are totally false. They had absolutely no intention to do any culpable acts against the two passengers/police constables who were taken in the vehicle or against the police party who had reached the scene. Because of the misbehaviour of the two

police constables, the people of the locality collected there had taken objections. Totally false and frivolous allegations have been raised in crime Nos.173 and 174 of 2007 against the petitioners and other members of the public of the locality. The attempt by the police is only to save the skin of the two police constables who misbehaved in the car and later at the house of the petitioner. The car was stopped in front of the house of the petitioner. It is prayed that anticipatory bail may be granted to the petitioners.

5. Notice was given to the learned Public Prosecutor. The case diaries in all the three crimes are made available for my perusal. After detailed discussions at the Bar, the learned Public Prosecutor fairly does not oppose the application for anticipatory bail. The learned Public Prosecutor only submits that appropriate conditions may be imposed for a fair, efficient and expeditious investigation. I shall restrain myself. I shall not make comments about the conduct of the police in registering crime Nos.173 and 174 of 2007. I shall not comment on the criticism of the learned counsel for the petitioners that the superior officials of the police have unshamely attempted to support the two police constables who had misbehaved to the second petitioner's wife and the petitioners. Suffice it to say that I am satisfied that the petitioners do deserve to be granted anticipatory bail. Appropriate conditions can of course be imposed.

6. In the result, these petitions are allowed. Following

directions are issued under Section 438 Cr.P.C in favour of the petitioners.

i) Petitioners shall surrender before the learned Magistrate having jurisdiction at 11 a.m on 21/8/2007.

ii) They shall be released on regular bail on condition that they execute bonds for Rs.25,000/-(Rupees twenty five thousand only) each without any sureties.

iii) The petitioners shall make themselves available for interrogation before the investigating officer between 10 a.m and 12 noon on 22/08/2007 and thereafter as and when directed by the investigating officer in writing to do so.

(iv) If the petitioners do not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioners and deal with them in accordance with law, as if these directions were not issued at all.

(v) If they were arrested prior to 22/08/2007, they shall be released from custody on their executing bonds for Rs.25,000/-(Rupees twenty five thousand only) without any sureties, undertaking to appear before the learned Magistrate on 22/08/2007.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007